

1
2 UNITED STATES DISTRICT COURT
3 WESTERN DISTRICT OF WASHINGTON
4 AT SEATTLE

5 JESUS GONZALEZ-QUEZADA,

6 Plaintiff(s),

7 v.

8 MICHAEL C. HAYDEN, et al.,

9 Defendant(s).

NO. C09-57MJP

ORDER ADOPTING REPORT AND
RECOMMENDATION

10 The above-entitled Court, having received and reviewed:

- 11 1. Magistrate Judge's Report and Recommendation (Dkt. No. 3)
- 12 2. Plaintiff's Objections to the Report and Recommendation (Dkt. No. 8)

13 and all attached exhibits and declarations, makes the following ruling:

14 IT IS ORDERED that the Court ADOPTS the Report and Recommendation and orders that
15 this action be DISMISSED without prejudice for failure to state a claim upon which relief may be
16 granted under § 1915(e)(2)(B)(ii).

17 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis* is
18 DENIED as moot.

19 **Discussion**

20 Plaintiff has named as Defendants a variety of judges, judicial officials and legal professionals
21 in a sweeping complaint under 42 U.S.C. § 1983, claiming conspiracy, record tampering and failure to
22 abide by the rule of law, all of which have allegedly prevented him from appealing his criminal
23 conviction.

24 But the analysis of Plaintiff's claims by the Magistrate Judge lays out clearly that he has failed
25 to allege the "extraordinary circumstances" which are required before a federal court will intervene in

1 a pending state criminal proceeding. Furthermore, the state court defendants appear to be entitled to
2 immunity from Plaintiff's claims. Finally, Plaintiff's unsupported conclusory allegations that his
3 attorneys have engaged in "conspiracies" with state officials are insufficient to support a valid cause of
4 action.


5 Plaintiff's Objections address none of the legal analyses contained in the Report and
6 Recommendation and are really nothing more than a further recitation of the conclusory allegations
7 already found to be inadequate. Until such time as Plaintiff is prepared to enumerate the
8 "extraordinary circumstances" that would justify federal intervention in ongoing state criminal
9 proceedings, address the immunity defenses raised by his claims against judicial officials, and provide
10 factual support for his conspiracy allegations, this Court will not permit his matter to proceed.

11 **Conclusion**

12 Plaintiff's application to proceed *in forma pauperis* is DENIED and his complaint is ordered
13 DISMISSED without prejudice, prior to service, for failure to state a claim under which relief may be
14 granted under § 1915(e)(2)(B)(ii).

15
16 The clerk is directed to provide copies of this order to all counsel of record.

17 Dated: February 18, 2009

18
19 
20 Marsha J. Pechman
U.S. District Judge